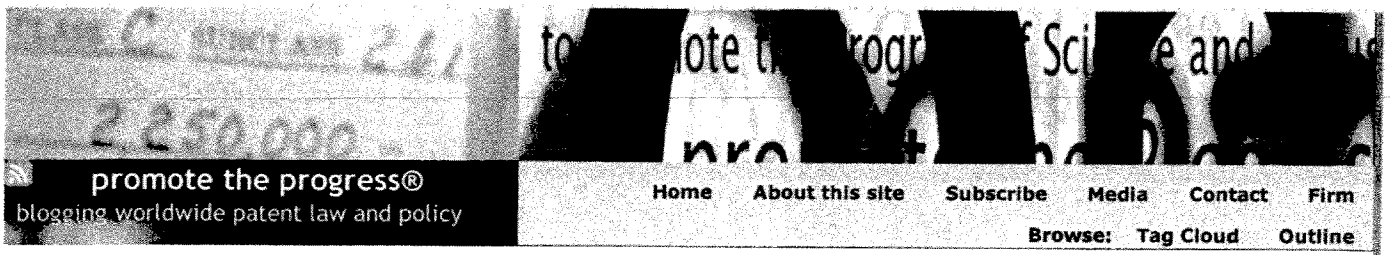
EXHIBIT 12



September 01, 2006

Friday food for thought: Has software infiltrated the Patent and Trademark Office?

Now let's see who's really paying attention....did you catch this one? This morning, the Patent and Trademark Office released the list of new appointees to the Patent Public Advisory Committee. Among the new advisors is Mr. David Westergard, a patent attorney with Micron Technology in Boise, ID.

If the name sounds familiar, it should...Mr. Westergard, I think, is becoming the poster boy for the software patent reform agenda. He's been in the public spotlight on a few occassions. Most notably, he recently presented the "need for reform" underlying the proposed rule that would place limits on RCE and continuation practice, stating, in essence, that 'continuation abuse' must be stopped.

John Whealan, Solicitor and USPTO General Counsel for Intellectual Property, spoke at the same meeting and explicitly agreed with Mr. Westergard that 'continuation abuse' is an issue that must be addressed. Interestingly, Whealan noted that the proposed rule has nothing to do with addressing the backlog of pending applications and everything to do with 'continuation abuse.'

Under this new appointment, Mr. Westergard will serve a three year term as an advisor to the Office. While this new advisory role for Mr. Westergard was just announced this morning, I'm betting that he's been advising the current administration for some time, particularly on the evils of 'continuation abuse' and the plague it presents to our society.

2 comments

#1 | At 02:45 PM on September 03, 2006, David J. French wrote:

David French writes:

I have not participated significantly in this "great debate" over continuation practice. But I am concerned, having recently filed two RCE's in respect of a very important invention. Now I note that the Patent Office has finally seized upon a spin that will clearly serve to support their initiatives: "continuation abuse."

In Canada, and in other jurisdictions, an applicant is entitled to have several prosecution exchanges with an examiner. However, in the United States, around 1968 I believe, applicants were restricted to a single response were they could make amendments as of right. Thereafter, if they wanted to make further amendments, they had to refile their applications as continuations. This involved the penalty of going to the rear of the examination line. But it did not extinguish the applicant's right to have multiple exchanges with the examiner.

"Continuation abuse" might be found in this procedure in cases where an applicant repeated the cycle in order to extend the patent term. However, after 1994, when the 20 year patent term dating from Grant was implemented, this extension abuse ceased to exist.

So where is the abuse today?

Use of the phrase "continuation abuse" greatly serves the patent officeas interests as it implies that there are dangerous animals in the forest that have to be dealt with, sort of like the "War on Terrorism". In the name of these threats, the office can go forward with vigorous initiatives, some of which may appear in a clearer light to be extraordinary.

But will these initiatives simply achieve what is necessary to deal with abuses? Or will they go beyond that limit and, conveniently, achieve other objectives that the patent office is likely pursuing e.g. a statistical lower count of the number of applications that are pending for examination?

Great expression: "Continuation abuse"! Whoever thought of it should get an inventor's award.

#2 | At 11:39 AM on September 05, 2006, J. Matthew Buchanan replied:

David --

Thanks for the great comment. You've nailed a big issue on the head, I think.

The software (slash computer slash high-technology manufacturing) industry has done a wonderful lobbying job on the patent reform battlefield. At this stage in the game, I think it's safe to say that pharma, biotech and other 'status quo' minded groups have been taken by surprise and are probably guilty of underestimating the other side.

This year, the software industry adopted the 'patent troll' concept and ran with it....a strategy that has paid off in droves for them. Now comes 'continuation abuse.' I'm betting that this term is the new 'patent troll' for the foreseeable future.

I think a quick anecdote underscores my point (and yours). At the ABA's IP section meeting in Boston this summer, David Westergard, who was recently appointed to the Patent Public Advisory Committee, spoke as a proponent of the proposed rule that would limit RCE and continuation practice. He offered 'continuation abuse' as a justification. After Mr. Westergard spoke, John Whelan, Solicitor and USPTO General Counsel for Intellectual Property, spoke...again as a proponent for the proposed rule. Mr. Whealan indicated that the proposed rule had nothing to do with addressing the application backlog and everything to do with addressing the evils of 'continuation abuse.'

I was in the audience at that meeting and remember leaving the room thinking about how savvy software has been with their agenda. The Westergard/Whealan remarks, I think, were a concerted effort to begin 'educating' patent stakeholders on the existence and evils of 'continuation abuse'. Sadly, no one has really mounted a challenge to the purported problem.

Thanks again for the great comment.

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